

REMARKS

Claims 1-6 are pending in the present application.

Claims 1-6 have been rejected.

No claims have been allowed.

Claims 1-6 have been amended.

Claims 7-20 have been added.

Claims 1-20 remain in the application.

Reconsideration of Claims 1-20 is respectfully requested.

Drawings

In Section 1 of the October 1, 2002 Office Action, the Examiner objected to the drawings under 37 C.F.R. § 1.84(o) because the drawings failed to provide suitable descriptive legends to identify the box elements necessary to understand the drawings and the invention. The Applicant is submitting corrected drawings concurrently with this Amendment to add suitable descriptive legends to the box elements in the drawings. The corrected drawings overcome the Examiner's objection to the original set of drawings.

35 U.S.C. § 112 Indefiniteness

In Sections 2 and 3 of the October 1, 2002 Office Action, the Examiner objected to Claim 3 because the expression “e.g.” in Claim 3 caused Claim 3 to be indefinite. In Section 4 of the October 1, 2002 Office Action, the Examiner objected to the presence of parentheses in Claim 3. Claim 3 has been amended to remove the expression “e.g.” and to remove the parentheses.

35 U.S.C. § 103(a) Obviousness

In Sections 5 and 6 of the October 1, 2002 Office Action, the Examiner rejected Claims 1-6 under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 6,411,306 to *Miller et al.* (hereafter “*Miller*”) in view of United States Patent No. 6,211,922 to *Jun*. The Examiner asserted, in essence, that the most of the elements recited in Claim 1 are disclosed in the *Miller* reference and that the *Jun* reference discloses indicator means for presenting a level indicator that indicates the parameter adjustments made by the Applicant’s invention. The Applicant respectfully traverses the Examiner’s rejections based on the *Miller* reference and the *Jun* reference.

During *ex parte* examinations of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is

established does the burden shift to the applicant to produce evidence of non-obviousness. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 USPQ 870, 873 (Fed. Cir. 1985).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not be based on an applicant's disclosure. MPEP § 2142.

The Applicant respectfully submits that the Patent Office has not established a *prima facie* case of obviousness with respect to the Applicant's invention in view of the *Miller* reference and the *Jun* reference.

The Applicant respectfully directs the Examiner's attention to amended Claim 1, which contains unique and novel limitations:

1. [Amended] An apparatus for processing signals, comprising parameter control means for controlling parameters of said signals, said parameter control means being adapted to cause adjustments to said parameters in response to one of: current ambient factors and properties of said signals, wherein the apparatus further comprises indicator means for presenting a level indicator which is indicative of said adjustments. (Emphasis added).

The Applicant respectfully asserts that the unique and novel limitations of amended Claim 1 are not disclosed, suggested, or even hinted at in the *Miller* reference or the *Jun* reference, or in the combination of the *Miller* reference and the *Jun* reference.

The present invention is directed to a signal processing system and method that comprises (1) parameter control means that adjusts signal parameters in response to one: current ambient factors and the properties of the signals, and (2) indicator means for presenting a level indicator that indicates the signal parameter adjustments. The present invention also comprises (3) user control means for selecting a preferred parameter level from a plurality of preferred parameter levels.

Miller is directed to an apparatus that automatically adjusts the video signal parameters of "luminance" and "contrast" as a function of "ambient" and "surround" luminance. *Miller* states that "It is desirable to provide a display unit that is capable of automatically adjusting luminance and contrast without the need for operator intervention." (*Miller*, Col. 1, Lines 14-18) (Emphasis added).

That is, *Miller* provides an apparatus that automatically calculates values of luminance and contrast based on sensor readings without user input. The *Miller* apparatus is "an apparatus for automatically

controlling a display luminance and contrast of a display device . . . ” (Miller, Col. 3, Lines 9, 10)
(Emphasis added).

Miller does not mention using user inputs of the type disclosed in the Applicant’s invention and has no element that is analogous to the Applicant’s “user command unit 112.” The reason for this is that the automatic system of the *Miller* apparatus has no need of user input. In fact, the *Miller* reference teaches away from using user input. Therefore, *Miller* is not a proper reference for the proposition that it would be obvious to combine user input with the *Miller* apparatus.

The Examiner stated that “However, Miller et al. does not explicitly disclose the indicator means for presenting a level indicator which is indicative of said adjustments.” (October 1, 2002 Office Action, Page 3, Lines 23-24). The Applicant agrees that the *Miller* reference does not disclose an indicator means as claimed. The Examiner went on to state that the *Jun* reference discloses an indicator means for presenting a level indicator of adjustments to an “on screen display” (OSD) signal generator 30. “The examiner submits that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Miller et al. with the teaching of Jun for the stated advantage.” (October 1, 2002 Office Action, Page 4, Lines 9-11).

The supposed stated advantage of *Jun* was to allow the user more easily to more easily see the present display parameters control state, even if the viewer is far from the screen. (October 1, 2002 Office Action, Page 4, Lines 6-8). The supposed stated advantage, however, refers to the “hue control state” or the “occupancy” that represents a degree of contribution to the hue expression

of a reference color. The "occupancy" is represented by the numerical expression 50 shown in Figure 2. This is the element of *Jun* that displays the hue control state information.

In any event, the *Jun* reference does not teach, disclose or even hint at the use of ambient factors. *Jun* does not mention using sensors of the type disclosed in the Applicant's invention and has no element that is analogous to the Applicant's "sensor 113." The reason for this is that the *Jun* apparatus has no need of sensor input for ambient conditions.

In any event, the indicator means of *Jun* relates to only one color at a time where the color is selected by user input. There is no teaching in *Jun* to suggest combining the *Jun* apparatus (that requires user input) with an automatically operated system such as the *Miller* apparatus (that has no need of user input). Under the applicable patent law, there must be some teaching, suggestion or motivation to combine the *Miller* reference and the *Jun* reference. "When a rejection depends on a combination of prior art references, there must be some teaching, or motivation to combine the references." *In re Rouffet*, 149 F.3d 1350, 1355-56, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998). "It is insufficient to establish obviousness that the separate elements of an invention existed in the prior art, absent some teaching or suggestion, in the prior art, to combine the references." *Arkie Lures, Inc. v. Gene Larew Tackle, Inc.*, 119 F.3d 953, 957, 43 USPQ2d 1294, 1297 (Fed. Cir. 1997).

The Applicant respectfully submits that there exists no teaching, suggestion or motivation in the prior art to combine the teachings of the *Miller* reference and the teachings of the *Jun* reference.

The Applicant respectfully submits that the supposed advantage of displaying information on a display screen so that a viewer can more easily see the information from far away is an

insufficient teaching or suggestion to combine the *Miller* reference and the *Jun* reference where the *Miller* reference teaches away from the concept of using user input and the *Jun* reference does not mention using ambient factors.

When two references are combined the combination of the references must teach or suggest all the claim limitations. In the present case, even if the *Jun* reference were combined with the *Miller* reference, the combination of the *Jun* reference and the *Miller* reference would not teach, suggest or even hint at the Applicant's invention. This is because, as previously described, the *Miller* reference does not teach, suggest, or even hint at the Applicant's concept of using user input and the *Jun* reference does not teach, suggest, or event hint at the Applicant's concept of using ambient factors.

The Applicant respectfully submits that amended Claim 1 contains limitations that are not disclosed, taught, or even suggested in the *Miller* reference, in the *Jun* reference, or in the combination of the *Miller* reference and the *Jun* reference. This being the case, Claim 1 is allowable over the *Miller* reference and the *Jun* reference, either alone or in combination. Additionally, Claims 2-4 depend from Claims 1 and contain all of the unique and novel limitations recited in Claim 1. This being the case, Claims 2-4 are patentable over the *Miller* reference and the *Jun* reference, either alone or in combination.

The Applicant has amended Claim 2 to claim an apparatus in which a user selects a preferred parameter level from a plurality of parameter levels. The *Miller* apparatus automatically selects only one parameter level (i.e., a default level) for luminance and contrast. There is no user input in *Miller*

to select a preferred parameter level from a plurality of parameter levels. The Applicant has also amended Claim 6 to claim a method in which a user selects a preferred parameter level from a plurality of parameter levels.

Also, independent Claim 5 contain limitations that are analogous to the unique and novel limitations recited in Claim 1. Thus, Claim 5 is patentable over the *Miller* reference and the *Jun* reference, either alone or in combination. Additionally, Claim 6, which depends from Claim 5, contains all of the unique and novel limitations recited in Claim 5. Thus, Claims 5-6 are both patentable over the *Miller* reference and the *Jun* reference, either alone or in combination.

The Applicant has added Claims 7-11, which directly or indirectly depend from amended Claim 1. Therefore, Claims 7-11 contain all of the unique and novel limitations of amended Claim 1. Thus, Claims 7-11 are patentable over the *Miller* reference and the *Jun* reference, either alone or in combination.

The Applicant has added Claims 12-20, which directly or indirectly depend from amended Claim 5. Therefore, Claims 12-20 contain all of the unique and novel limitations of amended Claim 5. Thus, Claims 12-20 are patentable over the *Miller* reference and the *Jun* reference, either alone or in combination.

The Applicant respectfully submits that Claims 1-20 are all patentable, and that the rejections of Claims 1-6 under 35 U.S.C. § 103(a) combining the *Miller* reference and the *Jun* reference should be withdrawn. The Applicant respectfully requests that Claims 1-20 be passed to issue.

The Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. The Applicant reserves the right to submit further arguments in support of his above stated position as well as the right to introduce relevant secondary considerations including long-felt but unresolved needs in the industry, failed attempts by others to invent the invention, and the like, should that become necessary.

SUMMARY


If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *wmunck@davismunck.com*.

No fees are believed to be necessary; however, in the event that any fees are required for the prosecution of this application, please charge any necessary fees to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

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APPENDIX A

AMENDMENTS WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

1 1. [Amended] An apparatus for processing signals, comprising parameter control
2 means for controlling parameters of said signals, said parameter control means being adapted to
3 cause adjustments to said parameters in response to one of: current ambient factors [or] and
4 properties of said signals, [characterized in that] wherein the apparatus further comprises indicator
5 means for presenting a level indicator which is indicative of said adjustments.

1 2. [Amended] An apparatus as claimed in claim 1, further comprising user control
2 means for setting a preferred parameter level to be input into said parameter control means, wherein
3 said preferred parameter level is selected by a user from a plurality of parameter levels, said
4 parameter control means being adapted to compute said adjustments as a function of said preferred
5 parameter level and said one of: current ambient factors [or] and properties of said signals.

1 3. [Twice Amended] An apparatus as claimed in claim 1 [or 2], wherein said signals
2 [being] comprise video signals, wherein said parameters [being] comprise picture parameters [(e.g.
3 contrast, brightness saturation)] and wherein said current ambient factors [being] comprise ambient
4 light.

1 4. [Amended] A television receiver comprising an apparatus as claimed in [any one
2 of claims 1 to 3] claim 1.

1 5. [Amended] A method for processing signals, comprising a step of controlling
2 parameters of said signals by determining adjustments in response to one of: current ambient factors
3 [or] and properties of said signals, [characterized in that] wherein the method further comprises a
4 step of presenting a level indicator which is indicative of said adjustments.

1 6. [Amended] A method as claimed in claim 5, further comprising [a step of] the
2 steps of:
3 selecting a preferred parameter level from a plurality of parameter levels;
4 setting [a] said selected preferred parameter level; and
5 [, said adjustments being computed] computing said adjustments as a function of said
6 selected preferred parameter level and said one of: current ambient factors [or] and properties of said
7 signals.

1 7. [New] An apparatus as claimed in claim 2, wherein said signals comprise video
2 signals, wherein said parameters comprise picture parameters and wherein said current ambient
3 factors comprise ambient light.

1 8. [New] An apparatus as claimed in claim 7 wherein said picture parameters comprise
2 one of: luminance, contrast, and brightness saturation.

1 9. [New] An apparatus as claimed in claim 3 wherein said picture parameters comprise
2 one of: luminance, contrast, and brightness saturation.

1 10. [New] A television receiver comprising an apparatus as claimed in claim 2.

1 11. [New] A television receiver comprising an apparatus as claimed in claim 3.

1 12. [New] A method as claimed in claim 6 wherein said signals comprise video signals,
2 wherein said parameters comprise picture parameters and wherein said current ambient factors
3 comprise ambient light.

1 13. [New] A method as claimed in claim 12 wherein said picture parameters comprise
2 one of: luminance, contrast, and brightness saturation.

1 14. [New] A method as claimed in claim 5 wherein said signals comprise video signals,
2 wherein said parameters comprise picture parameters and wherein said current ambient factors
3 comprise ambient light.

1 15. [New] A method as claimed in claim 14 wherein said picture parameters
2 comprise one of: luminance, contrast, and brightness saturation.

1 16. [New] A method of operating a television receiver comprising a method as claimed
2 in claim 5.

1 17. [New] A method of operating a television receiver comprising a method as claimed
2 in claim 6.

1 18. [New] A method of operating a television receiver as claimed in claim 16 wherein
2 said signals comprise video signals, wherein said parameters comprise picture parameters and
3 wherein said current ambient factors comprise ambient light.

1 19. [New] A method of operating a television receiver as claimed in claim 18 wherein
2 said picture parameters comprise one of: luminance, contrast, and brightness saturation.

1 20. [New] A method of operating a television receiver as claimed in claim 17 wherein
2 said signals comprise video signals, wherein said parameters comprise picture parameters and
3 wherein said current ambient factors comprise ambient light.



LL
3/11/03
Approved

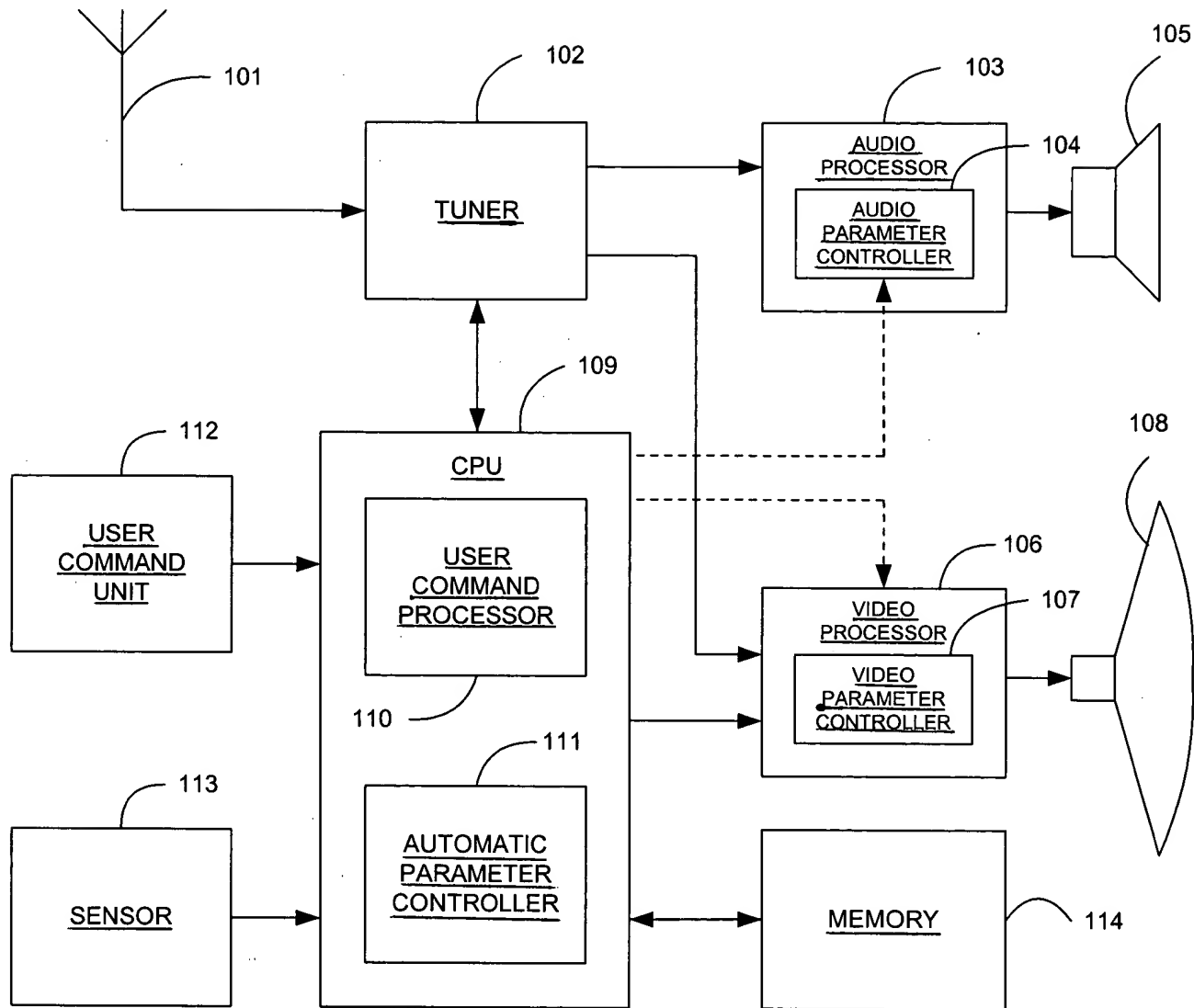


FIG. 1



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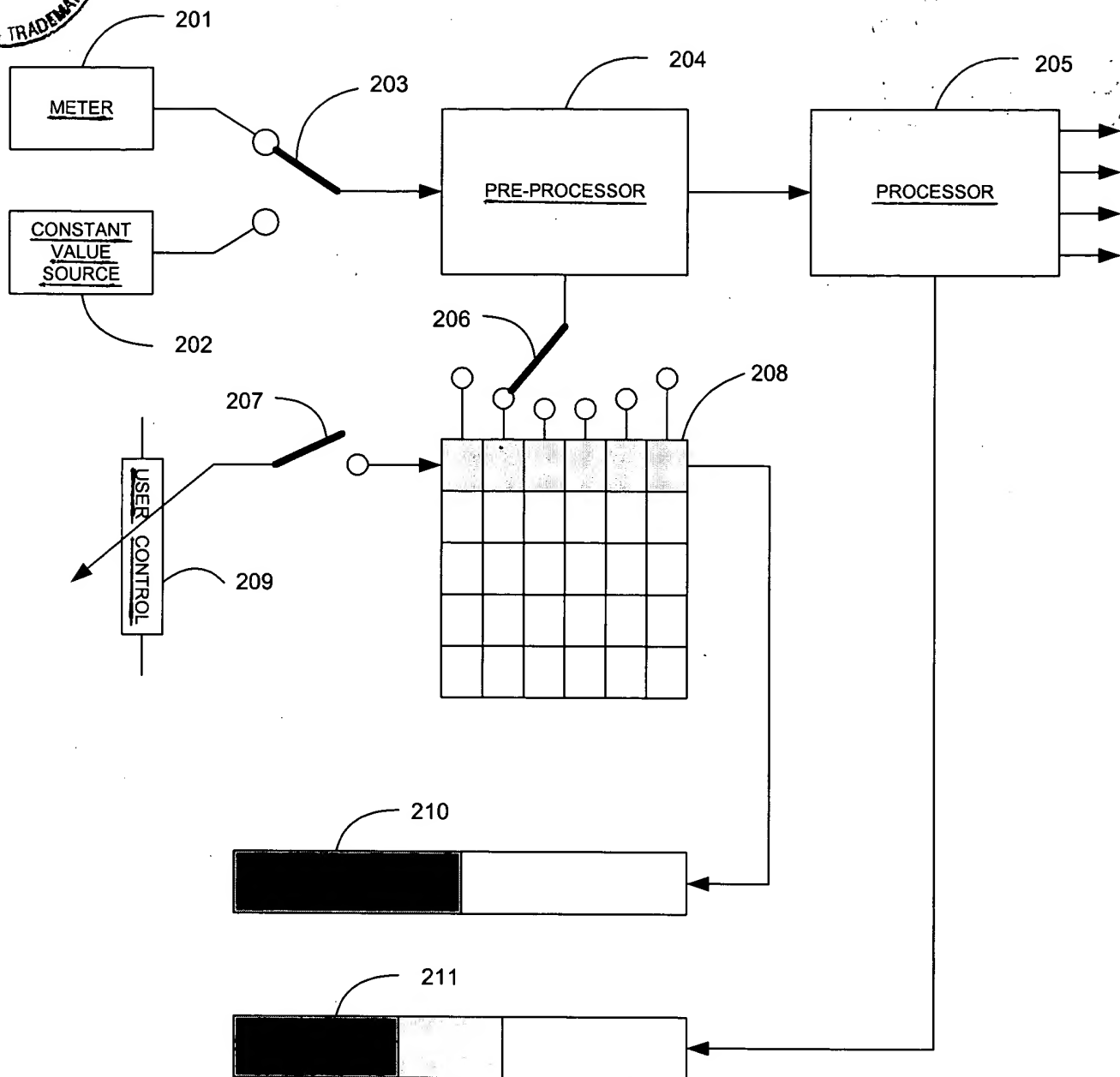


FIG.2